



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Whitehouse et al.

Serial No.: 08/694,542

Filing Date: August 9, 1996

Examiner: B. Anderson

Art Unit: 2878

For: Multipole Ion Guide  
Mass Spectrometry  
with MS/MS<sup>n</sup> Analysis

Attorney Docket No.: 840.052

Patent Application

X 3 /

RECEIVED

JUL 16 1999

TECHNOLOGY CENTER 2800  
SPECIAL PROGRAM CENTER

Assistant Commissioner for Patents  
Washington, D.C. 20231

Terminal Disclaimer

The owner, Analytica of Branford, Inc., of one hundred percent (100%) interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,652,427 (issued July 29, 1997) and U.S. Patent No. 5,689,111 (issued November 18, 1997).

The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any

patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is attorney of record.

The Commissioner is hereby authorized and directed to debit our deposit account, Account No. 02-2105 for the terminal disclaimer fee.

Dated: May 17, 1999

Respectfully submitted,

maibl

Morris E. Cohen (Reg. No. 39,947)  
Levisohn, Lerner, Berger, and Langsam  
757 Third Avenue, Suite 2400  
New York, New York 10017  
(212) 486 - 7272

# INFORMAL TERMINAL DISCLAIMER MEMO

DATE: 21 July 99  
TO: Ex Anderson

FROM: Deborah Perry-Leeper  
Paralegal Specialist  
Office of the Special  
Programs Examiner  
Group 2800

SERIAL NO: 08/694,542  
ART UNIT: 2878  
TD FILED: 19 May 99

Rule 60 Continuation  
 FWC  
 CIP

Examiner Initials/date

Instructions: The Terminal Disclaimer accompanying this application has been reviewed and the results identified below. Please use the appropriate Form Paragraph(s) to notify the applicant of the PTO decision regarding the "TD."

- The TD is Accepted and has been recorded (see 14.23).

- **TECHNICAL SUPPORT:** The TD fee of \$ \_\_\_\_\_ needs to be charged to Deposit Account: \_\_\_\_\_

- The TD is Defective and has not been accepted for the following reason(s):

- The recording fee of \$ \_\_\_\_\_ has not been paid/applied and [nor does] there is no [ appear to be] general fee authorization to charge the deposit account (see MPEP 14.25);

- It lacks the enforceable only during the common ownership clause (Rule 37 CFR 1.321(c)) (See MPEP 14.27, 14.27.1);

- It is directed to a particular claim or claims and not a terminal portion of the term of the entire patent to be granted (see MPEP 14.26, 14.26.2, 1490);

- It is not signed. (MPEP 14.26, 14.26.3);

- The serial no. of the application (or the **patent no.**) which forms the basis for the double patenting rejection is missing or incorrect (see MPEP 14.32);

- The serial no. of this pending application (or the number of the patent in reexam. and/or reissue cases ) being disclaimed is missing or incorrect (see MPEP 14.26, 14.26.4 or 14.26.5);

- The period disclaimed is incorrect or not specified (see MPEP 14.27, 14.27.2 or 14.27.3); and

- This pending application and the patented (pending) application (which forms the basis of the double patenting rejection) are not commonly owned.

## Terminal Disclaimers Submitted/Signed by the Assignee

- No 3.73(b) statement was provided.

- 3.73(b) statement is defective because:

- The person who signed the TD failed to state his/her capacity to sign for the business entity (see MPEP 14.28);

- The person who signed the TD is not recognized as an Officer of the Assignee (MPEP 14.29);

- There is insufficient evidence of the chain of title from the inventor to the assignee – no reel and frame number specified as to where such evidence is recorded in the PTO (37 CFR 3.73(b)); and

- There is no statement identifying that the evidentiary document(s) has been reviewed and to the best of the assignee's knowledge and belief title is in the name of the assignee seeking to take action (1140 OG 72).

- A revised TD can be filed to overcome the above objections - no additional T.D. fee is required.

**DO NOT PROVIDE THIS MEMO TO APPLICANT,  
MUST BE RETURNED TO SPRE UNIT**